

REMARKS

Applicant has carefully reviewed the Final Office Action mailed on April 17, 2009. Applicant respectfully traverses (and does not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. Claims 17-20, 22, 23, 25, and 27 remain pending.

Claim Rejections under 35 U.S.C. §103

Claims 17, 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. (U.S. Patent No. 5,320,634) in view of Larmour (U.S. Pat. No. 2,237,152) or Most (U.S. Pat. No. 2,127,043). Applicant respectfully traverses the rejection.

Claim 17 recites positioning the cutting blade adjacent the joining member so that the interlocking surface is submerged within and interlocked with the joining member and so that a portion of the top surface is submerged within the joining member.

The Office Action indicated that "Figure 2(A) of Vigil does not depict the top surface (30, 33a, and 33b of Figure 2(b)) of the cutting member/blade such that the top surface is considered submerged within the joining member." Somehow based on these comments, the Office Action went on to state in the next sentence that "[f]urthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that embedding the cutting member/blade as taught by Vigil as modified by Larmour or Most would have included embedding the top surfaces (30a, 33a, and 33b) to some extent to firmly interlock the strip with the cutting member/blade ...". We fail to see how the cited art renders the claimed invention obvious.

As indicated in the Office Action, nothing in Vigil et al. appears to teach or suggest positioning the cutting blade adjacent the joining member so that the interlocking surface is submerged within and interlocked with the joining member and so that a portion of the top surface is submerged within the joining member. Likewise, nothing in Larmour or Most teaches or suggests this feature. Therefore, nothing in the teachings of the cited art render the claimed invention obvious.

Moreover, the statement in the Office Action that it would have been obvious to embed the top surface to firmly interlock the strip with the cutting member/blade is not based on the

cited art and, instead, is a mere conclusory statement. Such a conclusion is not sufficient for establishing a *prima facie* case of obviousness. See: MPEP §2143.01-IV. Indeed, if the top surface (e.g., cutting edge 31) was submerged within the substrate 32, it would certainly render the atherotome 28 unsatisfactory for its intended purpose. See: MPEP §2143.01-V.

Based on the forgoing, Applicant respectfully submits that a *prima facie* case of obviousness has not been properly established for claim 17. Consequently, Applicant respectfully submits that claim 17 is patentable over the cited art. Because claims 18 and 20 depend from claim 17, they are also patentable based on this amendment and because they add significant elements to distinguish them further from the art.

Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. and Larmour or Most as applied to claims 17, 18 and 20 above, and further in view of Lim et al. (U.S. Patent No. 7,147,619). As set forth above, Applicant respectfully submits that claim 17 is patentable over Vigil et al. and Larmour or Most. Lim et al. fail to overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claim 17 is patentable over Vigil et al., Larmour or Most, and Lim et al., to the extent that such combinations are even possible. Because claim 19 depends from claim 17, it is also patentable for the same reasons as claim 17 and because it adds significant elements to distinguish it further from the art.

Claims 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. and Larmour or Most as applied to claims 17, 18 and 20 above, and further in view of Forman et al. (U.S. Pat. No. 5,514,092). As indicated above, Applicant respectfully submits that claim 17 is patentable over Vigil et al. and Larmour or Most. Forman et al. fail to overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claim 17 is patentable over Vigil et al., Larmour or Most, and Forman et al., to the extent that such combinations are even possible. Because claims 22 and 23 depend from claim 17 they are also patentable for the same reasons as claim 17 and because they add significant elements to distinguish them further from the art.

Claim 25 was rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. and Larmour or Most as applied to claims 17, 18 and 20 above, and further in view of Radisch, Jr. (U.S. Patent Pub. No. US 2003/0040770). As set forth above, Applicant respectfully submits that claim 17 is patentable over Vigil et al. and Larmour or Most. Radisch, Jr. fails to overcome

the shortcomings of the cited art. Consequently, Applicant respectfully submits that claim 17 is patentable over Vigil et al., Larmour or Most, and Radisch, Jr., to the extent that such combinations are even possible. Because claim 25 depends from claim 17, it is also patentable for the same reasons as claim 17 and because it adds significant elements to distinguish it further from the art.

Claim 27 was rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. and Larmour or Most as applied to claims 17, 18 and 20 above, and further in view of Obara et al. (U.S. Pat. No. 4,581,513) or Gray et al. (U.S. Pat. No. 5,895,406). As set forth above, Applicant respectfully submits that claim 17 is patentable over Vigil et al. and Larmour or Most. Neither Obara et al. nor Gray et al. overcome the shortcomings of the cited art. Consequently, Applicant respectfully submits that claim 17 is patentable over Vigil et al., Larmour or Most, and Obara et al. or Gray et al., to the extent that such combinations are even possible. Because claim 27 depends from claim 17, it is also patentable for the same reasons as claim 17 and because it adds significant elements to distinguish it further from the art.

Conclusion

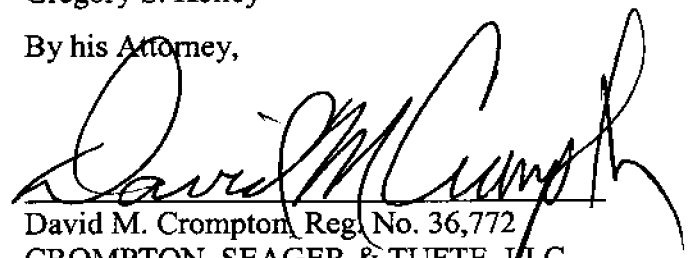
Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

Date: 7/17/09


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